



U.S. Department of Justice

*United States Attorney
Southern District of New York*

86 Chambers Street, 3rd floor
New York, New York 10007

March 8, 2021

By ECF

Honorable George B. Daniels
United States District Judge
United States Courthouse
500 Pearl Street
New York, NY 10007

SO ORDERED:

George B. Daniels
George B. Daniels, U.S.D.J.
Dated: MAR 10 2021

Re: In re Terrorist Attacks, 03 MDL 1570 (GBD) (SN)

Dear Judge Daniels:

We respectfully write on behalf of the Federal Bureau of Investigation (“FBI”) with respect to Plaintiffs’ Objections Pursuant to Fed. R. Civ. P. 72 of the Magistrate Judge’s April 27, 2020 Opinion and Order (ECF No. 6629) (“Plaintiffs’ Objections”).

First, the FBI respectfully requests a two-week extension of time, from March 12 until March 26, to file the FBI’s responses to Plaintiffs’ Objections. Plaintiffs have consented to this request for an extension of time. Plaintiffs were granted a 10-day extension of time to file their Objections (ECF No. 6620). The FBI seeks this additional time in light of the number of separate issues raised by the Plaintiffs’ Objections.

Second, the FBI respectfully requests leave to file up to three pages of its response to Plaintiffs’ Objections *ex parte* and *in camera*. Because this case involves the invocations of the state secrets and law enforcement privileges, and because most of the underlying information at issue is classified, the FBI filed, *ex parte* and *in camera*, hundreds of pages of classified declarations that detail, *inter alia*, the specific information withheld and the potential harms to national security that would result from disclosure. In addition, Judge Netburn granted the FBI leave to file the portion of its legal briefing that addresses these classified submissions *ex parte* and *in camera*. (ECF Nos. 6106, 6636). Finally, Judge Netburn also held an *ex parte* hearing at which the Court asked specific and detailed questions regarding the classified information at issue. (ECF No. 6461). The FBI therefore makes this request in order to aid the Court in its review of the voluminous record before Judge Netburn by pointing the Court to the portions of the classified submissions that address specific issues raised by the Plaintiffs’ Objections. Plaintiffs do not consent to this request.

FILED UNDER SEAL PURSUANT TO FBI PROTECTIVE ORDER

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Finally, the FBI writes in response to the Plaintiffs' request for oral argument with respect to Plaintiffs' Objections. (ECF No. 6630). The FBI does not oppose the request for oral argument. The FBI cautions, however, that, pursuant to the FBI Protective Order (ECF No. 4255), much of the information that is the subject of the underlying motion practice is sealed and cannot be discussed in a public setting. This is reflected in the substantial redactions that have been made to the public version of Judge Netburn's February 1 Opinion and Order, (ECF No. 6638), as well as to the parties' respective motion papers. Moreover, as discussed above, many of the issues raised by the Plaintiffs' Objections implicate classified information that can only be addressed *ex parte*.

The FBI respectfully thanks the Court for its consideration of these requests.

Respectfully submitted,

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cc: Counsel for Plaintiffs' Executive Committees
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